

US District Court for the Middle District of TN

) Craig Cunningham

) Plaintiff, pro se

)

) v.

CIVIL ACTION NO.

3-15 0894

)

) Ignite Capital, LLC, Ryan Sasson, and John/Jane Does 1-5

)

) Defendants.

Plaintiff's Original Complaint

1. The Plaintiff in this case is Craig Cunningham, a natural person and was resident of Davidson County at all times relevant to the complaint, and currently has a mailing address of 5543 Edmondson Pike, ste 248, Nashville, TN 37211
2. Upon information and belief, Ignite Capital LLC is a Delaware corporation and can be served via registered agent: National Registered Agents Inc., 160 Green Tree Dr. Ste 101, Dover, DE 19904
3. Ryan Sasson is a natural person and manager of Ignite Capital LLC and can be served at 225 W. 39th Street, 9th Floor, New York, New York, 10018.

Jurisdiction

4. Jurisdiction of this court arises as the defendants continuous and systematic contacts within the state of Tennessee in placing numerous phone calls to consumers in the state of Tennessee as part of a robocall marketing campaign in which tens of thousands of phone calls were made to consumers across the country. Subject matter jurisdiction is apparent as the TCPA is a federal question under 28 USC 1331.
5. Venue in this District is proper as the defendants are subject to personal jurisdiction based on the continuous and systematic contacts within the forum state of Tennessee. The telephone calls which led to the violations of alleged here occurred in Tennessee. The Defendants made multiple unsolicited telephone calls to the Plaintiff and other Tennessee residents living in Tennessee.

FACTUAL ALLEGATIONS

6. In 2015, the Plaintiff received multiple automated phone calls with a pre-recorded message to the Plaintiff's cell phone, which was 615-212-9191 at the time. These calls were clearly automated and made by an automated telephone dialing system as defined by 47 USC 227(a)(1), which can store or produce telephone numbers to be called using a random or sequential number generator.
7. These calls related to small business loans offered by Ignite Capital LLC and contained a pre-recorded message that said *"Hello and thank you for taking our call today. Your business has been pre-qualified for a line of credit from Ignite Capital LLC. Press 1 now to connect to learn more. Ignite Capital is a private*

lender who provides unsecured funding to small businesses. No credit check is required for a quote for funding. Whether good or bad credit, no collateral is needed and applying is quick, easy, and free. Again, press 1 now”

8. When the Plaintiff spoke to a representative, she asked if the Plaintiff was seeking working capital and inquired as to the nature of the Plaintiff's business and his needs for funding/working capital. She asked if the Plaintiff was familiar with private lending and stated that Ignite provides an uncollateralized line of credit and is based on how the Plaintiff handles his business checking account.
9. The Plaintiff is unsure how the Defendants obtained his cell phone number as he never gave it to them and never gave express or implied consent for the defendants to call his cell phone using an automated telephone dialing system or with a pre-recorded message. For the calls to be compliant, the Defendants would have had to obtained the Plaintiff's signature clearly authorizing automated/pre-recorded calls to the Plaintiff's cell phone for the calls to be permitted under the law, and the Plaintiff has signed no such document for Defendant Ignite.
10. Defendant Ryan Sasson is the managing partner for ignite and has an active role in supervising, ratifying, and authorizing the illegal telemarketing calls to take place and as such is directly liable for each and every call made on behalf of his company.
11. The Plaintiff received phone calls on 1/22/2015 3/3/2015, 5/14/2015 and 7/15/2015 at a minimum and is in the process of researching other calls.

12. The calls in question violated 47 USC 227(b) entitling the Plaintiff to a recovery of \$1500 for making calls using an automated telephone dialing system and containing a pre-recorded message and 47 USC 227(c)(5) as codified by 47 CFR 64.1200 under the FCC's rulemaking authority entitling the Plaintiff to an additional recovery of \$1500 for violating 47 CFR 64.1200(b) 47CFR 64.1200(c), and 47 CFR 64.1200(d) by failing to have a written policy on maintaining a do-not-call list and failure to train personnel on telemarketing.

CAUSES OF ACTION:

COUNT I

Violations of the Telephone Consumer Protection Act (TCPA)

13. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

14. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing calls with pre-recorded/automated messages to the Plaintiff's cell phone that lacked the name or address of the entity placing the phone calls in violation of 47 USC(c)(5) as codified by the FCC's rulemaking under 47 CFR 64.1200(d)(4), 47 CFR 64.1200(b), and 47 CFR 64.1200(c)

CAUSES OF ACTION:

COUNT II

Violations of the Telephone Consumer Protection Act (TCPA)

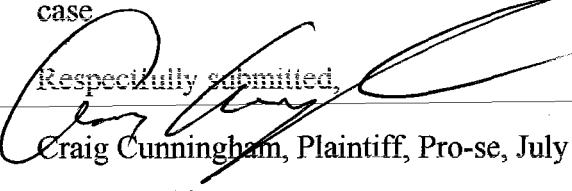
15. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
16. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing unsolicited and unwelcome telephone calls to the Plaintiff's cell phone. These phone calls also violated the TCPA by having an pre-recorded message in violation of 47 USC 227(b)

PRAYER FOR DAMAGES AND RELIEFS

- A. WHEREFORE, Plaintiff, Cunningham, respectfully prays and requests that judgment be entered against each and every defendant for the following:
- B. Statutory damages of \$3000 for each phone call.
- C. Pre-judgment interest from the date of the phone calls.
- D. Attorney's fees for bringing this action; and
- E. Costs of bringing this action; and
- F. For such other and further relief as the Court may deem just and proper

I, Craig Cunningham, Affiant, hereby attest to and certify that the facts contained in the foregoing complaint are true and correct to the best of my knowledge, information and belief and that a true and correct copy of the foregoing was sent to the defendants in this case

Respectfully submitted,


Craig Cunningham, Plaintiff, Pro-se, July 29th 2015

Mailing address:

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